

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1059

Central Broward Water Control District, Broward County

SPONSOR(S): Porth

TIED BILLS:

IDEN./SIM. BILLS:

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	<u>Military & Local Affairs Policy Committee</u>	<u></u>	<u>Fudge</u>	<u>Hoagland</u>
2)	<u>Governmental Affairs Policy Committee</u>	<u></u>	<u></u>	<u></u>
3)	<u>Economic Development & Community Affairs Policy Council</u>	<u></u>	<u></u>	<u></u>
4)	<u></u>	<u></u>	<u></u>	<u></u>
5)	<u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The Central Broward Water Control District (formerly known as the Napoleon B. Broward Drainage District) is an independent special district in Broward County created for the purpose of reclaiming the lands within its boundaries and to provide drainage and water management services.

The bill updates the boundaries of the district using more accurate survey methods, deletes obsolete language, revises qualifications for commission candidates and increases the competitive bidding threshold from \$10,000 to \$25,000.

Pursuant to House Rule 5.5(b), a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. The provisions of House Rule 5.5(b) appear to apply to this bill.

There is a question as to whether this bill requires a three-fifths majority vote for passage by the Legislature. See section "III. Comments. A. Constitutional Issues."

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The Central Broward Water Control District

The Central Broward Water Control District (formerly known as the Napoleon B. Broward Drainage District) is an independent special district in Broward County created by special act for the purpose of reclaiming the lands within its boundaries and to provide drainage and water management services.¹ All prior special acts relating to the district were codified by ch. 98-501, L.O.F.

The boundaries of the district encompass over a 45 square mile area which includes 107 miles of canals and approximately 21,000 residents. The district has 12 employees. The district is governed by a board of commissioners consisting of six members elected on nonpartisan basis, by qualified electors residing within each district zone. The district is supported by a non-ad valorem assessment based on each acre or fraction thereof.

The district is subject to the applicable provisions of ch. 298, F.S., "Drainage and Water Control."

District Boundary Modification

Section 298.301, F.S., provides that when a water control district is created, or its authorities or boundaries amended, by special act, lands may be added to or deleted only through legislative modification of the special act.

Effect of Proposed Changes

The bill authorizes the district to provide flood protection services and updates the boundaries of the district using more accurate survey methods. While the district has the authority to construct, operate, and maintain roadways, the bill amends that authority to include rights-of-way and easements. The bill also deletes obsolete language by changing tax collector to revenue collector and freeholder to elector or landowner where appropriate. The competitive bidding threshold is increased from \$10,000 to \$25,000.²

¹ Ch. 61-1439, L.O.F.

² § 287.017(1)(b), F.S.

Commissioners are required to reside in their respective zone for 90 days preceding the date of qualifying for nomination to office, instead of the current 30 days. The bill indicates that a vacancy will occur upon a commissioner moving from his or her zone. The bill changes the commissioners' oath and filing requirements to that prescribed by law. In the event that there is a deadlock in selecting a new chair or vice chair, the existing chair and vice chair remain in office until successors are selected. In the absence of a chair or vice chair the most senior commissioner shall preside if a quorum is present.

B. SECTION DIRECTORY:

Section 1: Revises provisions of the district's charter.

Section 2: Provides an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 9, 2009.

WHERE? In the *Sun-Sentinel*, a daily newspaper published in Broward County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

Three-fifths vote requirement

Paragraph (21) of subsection 11(a) of Article III of the Florida Constitution prohibits special laws or general laws of local application pertaining to "any subject when prohibited by general law passed by a three-fifths vote of the membership of each house. Such law may be amended or repealed by like vote"³ Pursuant to this authority, s. 298.76, F.S., was adopted and prohibits any special law or general law of local application which grants additional authority, powers, rights, or privileges to any water control district formed pursuant to ch. 298, F.S. The bill provides additional authority by increasing the competitive bidding threshold.

The law is unsettled regarding whether the "like vote" requirement to amend or repeal a law on a subject that was added to the prohibited subject list means that the amendment or repeal may be made (1) by any general or special law passed by a three-fifths vote; or (2) only by amending or repealing the underlying general bill that created the prohibited special law by a three-fifths vote. There is no case law on the issue and Florida attorneys general have come down on both sides of the issue.⁴

³ The *Local Policies and Procedures Manual* indicates that this concern may be partially alleviated by House Rule 5.5(b).

⁴ Op. Att'y Gen. 83-27 (May 5, 1983), Op. Att'y Gen. 69-80 (August 28, 1969).

This bill may or may not require a three-fifths vote to pass the Legislature.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill provides that assessment liens shall have the same priority as all other special assessment liens and taxes but not have priority of prior filed mortgages. However, section 17c. already provides that liens shall be superior in dignity to all other liens upon said lands, except the lien for state and county taxes and other taxes of equal dignity. Consequently, this change may be unnecessary.

The bill deletes the provision for election of supervisors by zones. However, the identification of separate zones remains.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES